

PETITION NO. 1101 - New Cingular Wireless PCS, LLC petition	}	Connecticut
for a declaratory ruling that no Certificate of Environmental	}	Siting
Compatibility and Public Need is required to install a stealth rooftop	}	Council
telecommunications tower on the roof of the existing building located	}	
at 79 Park Avenue, Danbury, Connecticut.	}	

September 12, 2014

DRAFT

Findings of Fact

Introduction

1. On May 1, 2014, New Cingular Wireless PCS, LLC (AT&T), pursuant to § 16-50j-38 and 16-50j-39 of the Regulations of Connecticut State Agencies (RCSA), petitioned the Connecticut Siting Council (Council) for a declaratory ruling that no amended Certificate of Environmental Compatibility and Public Need (Certificate) is required pursuant to § 16-50k of the Connecticut General Statutes (CGS), for the installation of a stealth tower on the rooftop of an existing apartment building located at 79 Park Avenue in Danbury, Connecticut. (AT&T 1, pp. 1-2)
2. AT&T is licensed by the Federal Communications Commission (FCC) to provide wireless services within the Danbury area. (AT&T 1, p. 2)
3. AT&T is the party in this proceeding. (Transcript, August 19, 2014, 4:00 p.m. [Tr. 1], p. 4)
4. The purpose of the proposed facility would be to provide wireless services along portions of Park Avenue, Lake Avenue, secondary and tertiary streets within the vicinity and the railroad in this area of Danbury. (AT&T 1, p. 4)
5. Pursuant to RCSA § 16-50j-40(a), AT&T sent notice of its intent to file a petition with the Council to all abutting property owners. (AT&T 1, p. 5)
6. Unit owners of 79 Park Avenue, which is in a condominium form of ownership, were notified of AT&T proposed facility. (AT&T 2, A1)
7. Pursuant to RCSA § 16-50j-40(a), AT&T sent notice of its intent to file a petition with the Council to municipal officials and government agencies as listed in CGS § 16-50e. (AT&T 1, p. 5)

Facility Description

8. The property at 79 Park Avenue is approximately 1.4 acres, on which there is a four-story residential apartment building and associated parking areas. (AT&T 1, p. 2; Attachment B – Sheet Z-4)
9. The area surrounding the 79 Park Avenue property is characterized by multi-family and high density single family residential development with several commercial areas within two miles of the property. (AT&T 1, p. 2)

10. On the apartment building at 79 Park Avenue, AT&T would add an extension measuring approximately 10 feet by 13 feet by 14 feet high to the top of an existing stairwell enclosure toward the front of the building. The top of the enclosure extension would be 52.7 feet above grade level (agl). AT&T would mount 12 panel antennas inside the enclosure extension at a centerline height of approximately 47.5 feet agl. (AT&T 1, p. 2; Attachment B – Sheet Z-6)
11. The proposed extension would be designed and painted to match the existing stairwell structure. (AT&T 1, p. 2)
12. The proposed stairwell extension could be dressed up with some architectural detailing to make it more visually appealing. (Tr. 1, p. 19)
13. The ground equipment for AT&T's facility would be located in a room in the basement of the apartment building. (AT&T 1, p. 2)
14. The location of AT&T's proposed antennas would be approximately 202 feet from the nearest portion of the property on which the Park Avenue elementary school is located. The nearest portion of the school building is approximately 305 feet from the proposed location of AT&T's antennas. (AT&T 5, Attachment 1 – Calculated Radio Frequency Emissions)
15. The 79 Park Avenue property is not located within a 100-year or 500-year flood plain. (Tr. 1, pp. 18-19)

Backup Power

16. For emergency backup power, AT&T would install a diesel generator on a four-foot by 10-foot concrete pad near the apartment building's garbage dumpster. (AT&T 1, p. 2)
17. AT&T's generator would be located within a manufacturer's noise and weatherproof enclosure. To further reduce the possibility of creating a noise-related nuisance, AT&T could install additional noise baffling inside the enclosure or inside the fence around the enclosure. (Tr. 1, pp. 16-17)
18. AT&T could install bollards around the generator enclosure to protect it from vehicles. (Tr. 1, pp. 20-21)

Procedure

19. Council member Robert Hannon and Council staff members Melanie Bachman and David Martin conducted a field review of AT&T's proposed project on May 20, 2014. (Petition 1101 Staff Report)
20. At a meeting held on June 26, 2014, the Council voted to hold a public hearing on AT&T's petition. (Council Meeting Minutes, Meeting of June 26, 2014)
21. AT&T posted a sign at the 79 Park Avenue property on August 1, 2014. The sign gave the date of the Council's scheduled public hearing and contact information for the Council. (AT&T 5, Attachment 2 – Affidavit of Eric Dahl)

22. Pursuant to provisions of Connecticut General Statutes § 16-50m and Section 16-50j-21 of the Regulations of Connecticut State Agencies, the Council, after giving due notice thereof, held a public hearing on August 19, 2014, with a public field review beginning at 3:00 p.m., an evidentiary hearing beginning at 4:00 p.m., and a session for public comments beginning at 6:30 p.m. in the Council Chambers of the Danbury City Hall, 155 Deer Hill Avenue in Danbury, Connecticut. (Tr. 1, p. 1 ff.)
23. At the continuation of the public hearing, set aside for comments from members of the public, two Danbury City Councilmen and three citizens spoke. The City Councilmen expressed concerns about the compatibility of the proposed facility with the surrounding neighborhood, its proximity to the nearby school, the potential of noise from the generator, and the possibility that the diesel tank to hold the generator's fuel could experience a rupture that would spill diesel into the nearby Still River. The three citizens expressed concerns over the potential health effects of the radiofrequency emissions from the facility, its proximity to the nearby school, and possible reductions to the value of nearby properties. (Transcript, August 19, 2014, 6:30 p.m. [Tr. 2], pp. 59 ff.)

Radio Frequency

24. The cumulative worst-case maximum power density from the radio frequency emissions from the operation of AT&T's proposed antennas, calculated for a height of six feet above ground level, would be 35.34% of the standard for the General Public/Uncontrolled Maximum Permissible Exposure, as adopted by the FCC, at ground level of the apartment building nearest to the proposed stairwell extension. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) that assumes all antennas would be pointed at the base of the tower and all channels would be operating simultaneously, which creates the highest possible power density levels. Under normal operation, the antennas would be oriented outward, directing radio frequency emissions away from the tower, thus resulting in significantly lower power density levels in areas around the tower. (AT&T 1, Attachment C)
25. The cumulative worst-case maximum power density from the radio frequency emissions from the operation of AT&T's proposed antennas, calculated for a height of six feet above the level of the apartment building's rooftop, would be less than 10% of the standard for the General Public/Uncontrolled Maximum Permissible Exposure, as adopted by the FCC, at the penthouse apartments of the apartment building. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) (AT&T 3 – Supplemental Submission received June 20, 2014, Attachment C: Rooftop Radio Frequency Exposure Report)
26. The highest worst-case maximum power density from the radio frequency emissions from the operation of AT&T's proposed antennas, calculated for a height of six feet above ground level, would be 6.60% of the standard for the General Public/Uncontrolled Maximum Permissible Exposure, as adopted by the FCC, on the grounds of the Park Avenue School. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997). (AT&T 5 – Second Supplemental Submission dated August 12, 2014, Supplemental RF Emissions Report)
27. AT&T would be willing to take actual field measurements of radio frequency levels around the proposed facility should it be approved and brought into operations. (Tr. 1, p. 38)

28. The Telecommunications Act of 1996, which is administered by the Federal Communications Commission, prohibits the Council from considering the health effects of radio frequency emissions on human health and wildlife to the extent the emissions from towers are within the federal acceptable safe limits standard, which standard is also followed by the state Department of Public Health. (Tr. 2, p. 50)

Site Search

29. In addition to the property on which the proposed facility is located, AT&T investigated several other properties within the vicinity of 79 Park Avenue. The properties AT&T investigated were:
- a) Village Square Condominiums: This is a condominium complex adjacent to Summit Park West (the apartment building at 79 Park Avenue). There is no structure within this complex that would provide the height needed by AT&T.
 - b) Putnam Tower, 25 Beaver Street: This is a 100-foot apartment building. This location did not work from an RF perspective because it is too close to an adjacent site.
 - c) Danbury Mill, 55 Oil Mill Road: There is a 55-foot smokestack at this site, but AT&T could not achieve its coverage objective from this location.
 - d) 71 and 93 Lake Avenue: Both of these locations are commercial properties. AT&T explored erecting new, 50-foot towers at these locations. But neither location would work as well as the 79 Park Avenue building.
(Tr. 1, pp. 14-15)
30. AT&T also analyzed a city-owned water tank located off of Tarrywile Lake Road as a potential site for its facility. However, RF analysis indicated that this site could not provide the coverage AT&T is seeking to achieve. (AT&T 2, A6)